

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**TELENA MOSER, Personal Representative  
of the Estate of Terry L. Berry, JR.,  
Deceased;**

**8:18CV551**

**Plaintiff,**

**vs.**

**JOANN HELTON, ATHENA G BROWN,  
TODD R HAUSSLER, DUSTIN H  
GUSTAFSON, in their individual capacities;  
and JOHN/JANE DOES 1-2, employees of  
Tecumseh State Correctional Institution, in  
their individual capacities;**

**Defendants.**

**THIRD AMENDED  
CASE PROGRESSION ORDER**

This matter comes before the Court on the parties' Joint Motion to Extend Deadlines and Planning Conference ([Filing No. 74](#)). After review of the parties' motion, the Court finds good cause to grant the requested extensions. Accordingly,

**IT IS ORDERED** that the Joint Motion to Extend Deadlines and Planning Conference ([Filing No. 74](#)) is granted, and the second amended final progression order is amended as follows:

- 1) The deadlines for identifying and completing expert disclosures<sup>1</sup> for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiff:	<b>March 5, 2021</b>
For the defendants:	<b>March 19, 2021</b>
Plaintiff's rebuttal:	<b>April 2, 2021</b>

- 2) The deposition deadline is **June 21, 2021**.
- 3) The planning conference scheduled for October 30, 2020, is cancelled. The trial and pretrial conference will not be set at this time. A planning conference to discuss case progression, dispositive motions, the parties' interest in settlement, and the trial and pretrial conference settings will be held with the undersigned magistrate judge on **June 25, 2021**, at **11:00 a.m.** by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference.

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<sup>1</sup> While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.

- 4) The deadline for filing motions to dismiss and motions for summary judgment is **July 21, 2021**.
- 5) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is **July 21, 2021**.
- 6) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 7) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 8<sup>th</sup> day of September, 2020.

BY THE COURT:

s/Michael D. Nelson  
United States Magistrate Judge